



Economic Impact Analysis Virginia Department of Planning and Budget

22 VAC 40-72 – Standards for Licensed Assisted Living Facilities Department of Social Services October 7, 2005

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The State Board of Social Services (board) proposes to repeal the existing regulation, 22 VAC 40-71, and establish a new regulation, 22 VAC 40-72. The new regulation includes additional requirements for assisted living facilities in the following areas: care and services to residents; staff qualifications, training, and responsibilities; management of the facility; physical plant features; coordination with mental health systems; disclosure of information; and emergency preparedness. The proposed standards emphasize resident-centered care and services. The standards include requirements that strive for a more homelike environment for residents.

Estimated Economic Impact

The board proposes numerous new requirements for assisted living facilities. All of the proposed amendments produce some benefit, and most of the proposed amendments also produce additional cost. For the most part, the benefits are in the form of reduced health and safety risks for the assisted living facility residents. The costs consist of additional staff time and

fees. According to the department, some of the better-run facilities are already effectively complying with several of the proposed requirements.

Pursuant to Section § 63.2-1706 of the Code of Virginia, The State Department of Social Services (department) inspects assisted living facilities per the following schedule. For any assisted living facility issued a license or renewal thereof for a period of six months, the department makes at least two inspections during the six-month period, one of which is unannounced. For any assisted living facility issued a license or renewal thereof for a period of one year, the department makes at least three inspections each year, at least two of which are unannounced. For any assisted living facility issued a license or a renewal thereof for a period of two years, the department makes at least two inspections each year, at least one of which shall be unannounced. For any assisted living facility issued a three-year license, the department makes at least one inspection each year, which is unannounced.

If the department finds the assisted living facility in violation of any of the proposed requirements, as well the current requirements, it may administer sanctions as delineated in 22 VAC 40-80-340. Those sanctions currently include:

1. Petitioning the court to appoint a receiver for any assisted living facility or adult day care center;
2. Revoking or denying renewal of a license for any assisted living facility or adult day care center that fails to comply with the limitations and standards set forth in its license for violation that adversely affects, or is an imminent and substantial threat to, the health, safety or welfare of residents, or for permitting, aiding or abetting the commission of any illegal act in an adult care facility;
3. Revoking or denying renewal of a license for any child welfare agency that fails to comply with the limitations and standards set forth in its license; and
4. Imposing administrative sanctions through the issuance of a special order as provided in § 63.2-1709 D of the Code of Virginia. These include:

- a. Placing a licensee on probation upon finding that the licensee is substantially out of compliance with the terms of the license and that the health and safety of residents, participants or children are at risk;
- b. Reducing the licensed capacity or prohibiting new admissions when the commissioner has determined that the licensee cannot make necessary corrections to achieve compliance with the regulations except by a temporary restriction of its scope of service;
- c. Requiring that probationary status announcements, provisional licenses and denial and revocation notices be posted in a conspicuous place on the licensed premises and be of sufficient size and distinction to advise consumers of serious or persistent violation;
- d. Mandating training for the licensee or licensee's employees, with any costs to be borne by the licensee, when the commissioner has determined that the lack of such training has led directly to violations of regulations;
- e. Assessing civil penalties of not more than \$500 per inspection upon finding that the licensee of an adult day care center or child welfare agency is substantially out of compliance with the terms of its license and the health and safety of residents, participants or children are at risk;
- f. Requiring licensees to contact parents, guardians or other responsible persons in writing regarding health and safety violations; and
- g. Preventing licensees who are substantially out of compliance with the licensure terms or in violation of the regulations from receiving public funds.

The following subsections describe proposed amendments to these regulations, 22 VAC 40-72, along with estimated costs.

Licensee

The proposed changes to the section include: 1) adding a requirement that the licensee meet the criminal background check regulation, 3) specifying that the licensee must develop and maintain an operating budget, and 4) requiring the licensee to provide advance notification of voluntary closure or impending sale, with updates upon request. The criminal background check requirement is specified in law as a result of legislation passed by the 2005 General Assembly (HB2512 and SB1183), and it provides increased assurances regarding the background of those the department licenses. More specification about the responsibilities of the licensee strengthens the provision and continuity of services to residents. Advance notice of closure alerts residents

and their families to the necessity for relocation or to possible changes in services or rates, and also gives them time to make new arrangements, if necessary or desired. Criminal background checks cost approximately \$15 per person.

Disclosure

The proposed change adds a provision for consistent public disclosure that describes services, fees, criteria for admission, transfer and discharge, number and qualifications of staff, provision of activities, rules regarding resident conduct, and facility ownership structure. The requirement for public disclosure of specified information is based upon changes to the law made as a result of legislation passed by the 2005 General Assembly (HB2512 and SB1183). Disclosure provides prospective residents and their families information that allows for comparison of facilities and enables them to make an informed choice. The department estimates that it will cost \$145 for completion of the public disclosure form by the administrator (\$29 x 5 hours).¹

Risk Management

The proposed change adds a requirement for a written risk management plan. The rationale for such a plan is to ensure that management examines and reduces risks to residents in order to better protect the population in care. The department estimates that it will cost \$116 for development of a risk management plan by the licensee (\$29 x 4 hours).

Quality Improvement

The proposed change adds a requirement for a quality improvement program, to include self-assessment based on examination of specified items, and development and implementation of plans to correct deficiencies and improve care. The purpose of the new requirement is to strengthen facility management and accountability for results. The department estimates that it will cost \$145 for development of a quality improvement program by the administrator (\$29 x 5 hours).

Infection control program

The proposed change adds a requirement for an infection control program, with specified elements to be included. The purpose of the change is to provide a necessary safeguard, as there

¹ The State Department of Social Services surveyed assisted living provider associations and determined that on average administrators are paid \$29 per hour.

are more debilitated residents in care and an increasing number of residents with antibiotic resistant infections. The department estimates that it will cost \$116 for establishment of an infection control program by the administrator (\$29 x 4 hours).

Incident and occurrence reports

The proposed change adds specific occurrences that must be reported and provides instructions regarding documentation and reporting of incidents and occurrences. The purpose of the change is to clarify and strengthen the current standard. The department estimates that it will cost \$15 for completion of each incident report by the administrator (\$29 x ½ hour).

Provision of data

The proposed standard adds a requirement that facilities provide demographic and clinical data about residents to the Department, upon request but no more than twice yearly. The rationale for this new provision is to provide better information for planning and training purposes and this information is to be shared with providers. The department estimates that it will cost \$116 for initial compilation of demographic and clinical data by the administrator (\$29 x 4 hours).

Personnel policies and procedures

The proposed changes add requirements for job descriptions for all positions and for annual employee performance evaluations. Also included in the proposed standard is a requirement for verification of employee credentials and training. The intent of these changes is to increase resident well-being through improved employee performance resulting from better knowledge and direction regarding job expectations, and to ensure employee credentials. The department estimates that it will cost \$29 for each employee performance evaluation by the administrator (annually, each time \$29 x 1 hour).

Employee orientation

The proposed changes add to employee orientation the following training topics: 1) the facility's policies and procedures, handling of resident emergencies, infection control measures, incident reporting, and for direct care staff, information on residents' needs, preferences and routines. The purpose of these changes is to improve care and provide increased protection to residents. The intent includes an emphasis on person-centered care.

Administrator provisions and responsibilities

The proposed changes provide for 1) appointment of a qualified acting administrator when an administrator terminates employment, 2) strengthening and clarifying administrator responsibilities, 3) at least 24 of the 40 hours being on week days during the day shift; 4) a written schedule for the administrator. The purpose of these changes is to ensure appropriate and adequate oversight of facilities. These requirements are based on a change in the law resulting from 2005 General Assembly legislation, except for strengthening and clarifying administrator responsibilities. The department estimates that hiring a qualified acting administrator for 90 days would cost \$8,840 for ($\$17 \times 40 = \680 a week $\times 13$ weeks).

Administrator qualifications

The proposed changes increase educational requirements for administrators, providing for differences based on the level of care for which a facility is licensed. Provisions are made for the grandfathering of current administrators, although those who were grandfathered in the previous standards who are administrators in facilities licensed for assisted living care are required to complete a department approved course. The intent of the changes is for administrators to have increased knowledge in order to better manage an increasingly complex operation. The department estimates that it would cost \$650 for a department approved course for a prospective administrator of an assisted living facility and for current administrators of facilities licensed for assisted living care who do not have a high school degree or GED.

Administrator training

The proposed changes add the following requirements: 1) new administrator training, grandfathering in current administrators, 2) refresher training for administrators when standards are revised, unless determined unnecessary by the Department, and 3) medication training for administrators under certain circumstances. The purpose of these changes is to increase protection of residents by ensuring administrators are knowledgeable in a timely fashion about standards and that resident safety is enhanced by improved management and supervision of medication aides. The requirement regarding medication training is based on changes in the law resulting from legislation passed by the 2005 General Assembly. The department estimates that it would cost \$174 for a new administrator to attend pre-licensure training ($\$29 \times 6$ hours), \$87 for an administrator to attend revised standards training ($\$29 \times 3$ hours), and \$1,278 for an

administrator to complete the medication training program ($\$29 \times 32 \text{ hours} = \$928 + \$350$ for the course).

Shared administrator for smaller facilities

The proposed change adds a provision for a shared administrator for smaller facilities under certain circumstances, allowing an administrator to be present for fewer than 40 hours at a given facility, without a designated assistant who meets the qualifications of an administrator. The intent of this standard is to reduce costs while maintaining adequate administrative function. The proposed standard is based on a change in the law resulting from legislation passed by the 2005 General Assembly. The department estimates that there would be \$20,040 in savings for a shared administrator in facilities licensed for 10 or fewer residents (annually \$45,000 of administrator salary saved – \$24,960 manager salary spent = \$20,040 saved) and \$13,360 in savings for a shared administrator in facilities licensed for 11-19 residents (annually \$30,000 of administrator salary saved – \$16,640 manager salary spent = \$13,360 saved).

Administrator of both assisted living facility and nursing home

The proposed change increases the educational and training requirements for the manager position, which is a necessary position if the administrator of both an assisted living facility and a nursing home does not provide direct management of the assisted living facility. Current managers are grandfathered. The purpose of this change is to upgrade the qualifications and training of the person who is responsible for the day to day management of the facility, in order to improve services and provide greater protection for residents.

Designated staff person in charge

The proposed change provides for a designated direct care staff person to be in charge when the administrator, designated assistant, or manager is not on duty at the facility. The rationale for this change is to ensure someone is responsible for overseeing the facility at all times. The proposed standard is based on a change in the law resulting from legislation passed by the 2005 General Assembly. The department estimates that it would cost \$13,312 for a designated staff person to be in charge for the hours when the administrator or manager is not on duty (annually 6,656 hours \times additional \$2 an hour).

Direct care staff qualifications

The proposed change requires that direct care staff who care for residents at the assisted living level of care must complete specified training within two months of employment. Another change adds graduation from an approved personal care aide training program to the training options available. The intent of these changes is to assure that staff are trained as quickly as reasonable possible for improved staff performance and to offer more flexibility in training options. The proposed changes are based on a revision to the law resulting from legislation passed by the 2005 General Assembly.

Direct care staff training

One of the proposed changes is to require that the annual direct care staff training must commence within 60 days of employment. Another proposed change is an increase to 16 hours in the annual training required for direct care staff serving the assisted living level of care except for licensed health care professionals and certified nurse aides who would be required to attend 12 hours of annual training. The intent of requiring training to commence within 60 days of employment is to prevent facilities from waiting until employees' 11th or 12th month for them to receive their annual training. The purpose of the increase in training hours is to increase the ability of staff to do their jobs well. The proposed changes are based on a revision to the law resulting from legislation passed by the 2005 General Assembly. The department estimates that it would cost \$42 per staff member for additional training for direct care staff for the assisted living level of care (annually 4 hours x \$8 + \$10 cost of training).

Volunteers

The proposed changes include additional requirements for supervision, orientation, and records of volunteers. The purpose of the changes is to ensure the safety of residents and volunteers, and to provide clearer direction to volunteers regarding their duties.

Employee records and health requirements

The proposed change requires risk assessments for tuberculosis. The purpose of the change is to comply with the current guidelines of the Virginia Department of Health.

First aid and CPR certification

The proposed changes add requirements that 1) all direct care staff have current first aid certification, 2) there be additional staff with CPR certification in larger facilities, and 3) there be

an employee with current first aid and CPR present at facility sponsored activities off the premises and when an employee transports residents. The purpose of these changes is to avoid delays in securing emergency support. The proposed changes are based on a revision to the law resulting from legislation passed by the 2005 General Assembly. The department estimates that it would cost \$63 for a direct care staff person to receive certification in first aid (3.5 hours x \$8 + \$35 for course). The department estimates that it would cost \$55 for a direct care staff person to receive certification in CPR for a facility licensed for over 100 residents or for taking residents on trips (2.5 hours x \$8 + \$35 for course)

Staffing

The proposed changes add requirements for a written direct care staffing plan based upon resident acuity levels and individualized care needs and for written work schedules, and eliminate the allowance for smaller facilities to permit the staff person on duty to sleep during the night. The purpose of these changes is to ensure adequate staffing to meet the needs of residents. The proposed change regarding the elimination of allowing a staff person to sleep at night is based on a revision to the law resulting from legislation passed by the 2005 General Assembly. The department estimates that it would cost \$174 for development of a direct care staffing plan by the administrator (\$29 x 6 hours) and \$64 for elimination of the allowance that permitted staff person on duty to sleep at night in smaller facilities (daily 8 hours x \$8).

Admission and retention of residents

One of the proposed changes adds an assessment of psychological, behavioral, and emotional functioning, if recommended for a resident, to the information needed for the facility to make a decision regarding admission. The intent of this change is to ensure that the facility has adequate information to determine whether it can meet the needs of the resident. The proposed change is based on a revision to the law resulting from legislation passed by the 2005 General Assembly. Another of the proposed changes is the addition of requirements when care for gastric tubes is provided by unlicensed direct care staff. The intent of this requirement is to provide protection to residents receiving gastric tube care from unlicensed staff, as allowed by a revision to the law resulting from legislation passed by the 2005 General Assembly. The department estimates that it would cost \$200 for an RN to train and monitor an unlicensed direct care staff person who provides care for gastric tubes (10 hours x \$20) and \$210 for each psychological assessment of a resident by a qualified mental health professional (\$105 x 2 hours).

Physical examination and report

The proposed changes require risk assessments for tuberculosis and add an annual assessment for residents. The purpose of the changes is to comply with the current guidelines of the Virginia Department of Health and provide further protection for the health of residents. The department estimates that it would cost \$19 for an annual tuberculosis risk assessment for a resident by a nurse in a physician's office.

Mental health assessment

The proposed changes add requirements for 1) an evaluation of a resident by a qualified mental health professional when there are indications of mental illness, mental retardation, substance abuse, or behavioral disorders, 2) notification of a contact person and a mental health services provider when the evaluation indicates a need for such services, and 3) the collection of collateral information for individuals with mental health disabilities. The purpose of the changes is to ensure that residents with mental health problems are properly assessed and receive appropriate care. The proposed changes are based on a revision to the law resulting from legislation passed by the 2005 General Assembly.

Resident agreement with facility

The proposed changes add a few items to be included in the agreement between the resident and the facility and require the facility to annually review with the resident the terms of the agreement. The intent of the changes is to ensure that residents are aware of the terms of the agreement and their residency in the facility. The department estimates that it would cost \$4.80 per resident for an administrator to review with the resident the agreement between him and the facility (annually, each time \$29 x 10 minutes).

Orientation and related information for residents

The proposed change adds a requirement for orientation for new residents and their legal representatives. The intent of this change is to assure residents and their representatives are aware of facility routines from the beginning in order to allow a smoother transition and protect the welfare of the resident.

Discharge of residents

The proposed changes include additional provisions regarding notification of discharge and reduction in the maximum number of days notice a facility may require from a resident who

wishes to move. The intent of the changes are to ensure proper notification of discharge and to bring time frames for resident initiated notice closer to those for facility initiated notice.

Uniform assessment instrument (UAI)

The proposed changes add a requirement that facility employees who complete the uniform assessment instrument (UAI) for private pay residents receive department approved training and that residents are advised of the right to appeal the outcome of the assessment. The purpose of the changes is to ensure that employees are well trained in completion of the UAI and that residents are aware of their right to appeal the assessment.

Individualized service plans

The proposed changes 1) add a requirement for staff training on the completion of the individualized service plan (ISP), 2) shorten time frames for completion of the ISP, 3) make an allowance for deviation from the plan, and 4) require documentation of outcomes and progress toward reaching expected outcomes. The purpose of the changes is to improve ISPs so that the needs of residents are better addressed. The department estimates that it would cost \$145 for an administrator to complete the ISP training program (\$29 x 5 hours).

Personal care services and general supervision and care

The proposed changes provide for 1) resident-centered care, 2) observation of residents for changes in functioning, 3) notification requirements when residents fall or wander, 4) communication between an employee and a resident in a language the resident understands, and 5) resident access to preferred personal care items when possible. The intent of the changes is that residents receive appropriate care and services based on their individualized needs.

Health care services

The proposed changes add more specific requirements regarding the provision of health care. The intent of the changes is to ensure that needed health care is provided to residents in a timely manner.

Health care oversight

The proposed changes add requirements for 1) the licensed health care professional to have two years of experience in adult residential or day care, 2) residents at the residential living level of care to be provided health care oversight at least every six months, and 3) additional responsibilities to be included in the health care oversight. The purpose of the changes is to

increase health care oversight by broadening it to include residents at both levels of care and by adding certain responsibilities, and to improve the oversight by requiring health care professionals to have experience in adult residential or day care. The additional responsibility related to medication is based upon a revision to the law resulting from legislation passed by the 2005 General Assembly. The department estimates that it would cost \$144 for a licensed health care professional to provide health care oversight for residents at the residential living level of care (twice a year, each time \$18 x 8 hours) and \$9 for increased responsibilities of a licensed health care professional who provides health care oversight for residents at the assisted living level of care (four times a year, each time \$18 x ½ hour).

Mental Health Services Coordination, Support, and Agreement

The proposed change requires a facility to evaluate its ability to retain mentally impaired residents when recommended mental health services cannot be obtained. The purpose of the change is to protect residents and others, and to provide information on the accountability of community services. The proposed changes are based on a revision to the law resulting from legislation passed by the 2005 General Assembly.

Intervention for high risk behavior

The proposed changes require 1) referral to mental health providers when a resident exhibits or indicates an intent to engage in high risk behavior, 2) if needed, the development of a behavioral management tracking form, 3) training for facility staff who care for residents with high risk behavior, and 4) special conditions to be met for use of a restrictive behavioral management plan. The purpose of the changes is to reduce risks to residents with mental disorders and increase safety, and to improve services to residents who exhibit high risk behavior. The proposed changes relating to referral and training are based on revisions to the law resulting from legislation passed by the 2005 General Assembly. The department estimates that it would cost \$14.50 for an administrator to provide consultation to a mental health treatment provider regarding a behavioral management tracking form (\$29 x ½ hour) and \$52.50 for development of a behavioral management tracking form by a mental health treatment provider (\$105 x ½ hour).

Activity/recreational requirements

The proposed changes provide for greater variety in available activities, for involvement of residents and employees in planning activities, and for improved implementation of the activity program. The intent of the changes is to offer an activity program that is of increased interest and benefit to residents.

Visiting in the facility

The proposed change adds a requirement that a facility encourage family involvement with a resident and provide opportunities for family participation in facility activities. The intent of the change is to promote continued connectedness.

Resident rights

The proposed changes add an annual review of resident rights with employees and a requirement that a facility follow up when a physician did not record a resident's inability to understand rights that is later questioned. The purpose of the changes is to remind employees about resident rights and to emphasize their importance and to stop the presumption that a resident understands his rights in the face of contrary evidence.

Food service and nutrition

One of the proposed changes provides for residents to have the option of eating in their rooms if the facility offers routine or regular room service. The intent of this change is to allow greater flexibility and to support resident choice. Another proposed change adds a requirement that residents have a minimum of 30 minutes to eat. The intent of the change is to ensure that residents have adequate time to finish their meals. Another proposed change includes the monitoring of residents' food consumption and intervention when nutritional problems are suspected. The intent of this change is to protect the health of residents.

Number of meals

The proposed change adds availability of snacks between meals. The intent of the change is to provide more food for residents who eat smaller meals due to disability or medications and to allow all residents to have the opportunity for a snack in between meals, which is consistent with the "homelike" atmosphere that assisted living facilities market to the public.

Menus for meals and snacks

The proposed changes add requirements for 1) having a dietary manual, 2) quarterly oversight of special diets by a dietitian or nutritionist, and 3) availability of drinking water. The purpose of the changes is to improve nutrition and hydration and to ensure that special diets are prepared and provided appropriately. The department estimates that it would cost \$25 for a diet manual and \$40 annually for a dietitian or nutritionist to provide oversight of special diets (quarterly, each time \$20 x ½ hour per resident).

Medication management plan and reference materials

The proposed changes add requirements for 1) a medication management plan that addresses procedures related to administering medications to residents and is approved by the department, and 2) maintenance of medication reference materials. The intent of the changes is to improve administration of medications and reduce the possibility of medication errors. The proposed changes are based on revisions to the law resulting from legislation passed by the 2005 General Assembly. The department estimates that it would cost \$145 for development of a medication management plan by an administrator (5 hours x \$29) and \$55 for medication management reference materials.

Physician's order

The proposed changes add requirements for new orders for medication and treatment when a resident returns from a hospital, and for the content of and the taking of physicians' orders. The intent of these changes is to ensure that residents receive medications properly. The proposed changes are based on revisions to the law resulting from legislation passed by the 2005 General Assembly.

Storage of medications

The proposed changes add requirements for the storage of controlled substances and other medications. The intent of the changes is to protect the safety of residents. The proposed changes are based on revisions to the law resulting from legislation passed by the 2005 General Assembly.

Qualifications, training, and supervision of staff administering medications

The proposed changes 1) increase the qualifications of medication aides who care for residents at the residential living level of care, grandfathering in current medication aides, 2) add

annual in-service training for medication aides, 3) add a requirement for a refresher course every three years for medication aides, and 4) add a requirement regarding supervision of medication aides. The purpose of the changes is to have more qualified and better trained and supervised medication aides to reduce errors in medication administration. The proposed changes related to in-service training and the refresher course are based on revisions to the law resulting from legislation passed by the 2005 General Assembly. The department estimates that it would cost \$655 for the department approved direct care staff training for a medication aide who only cares for residents at the residential living level of care, with current medication aides grandfathered (40 hours x \$8 + \$335 for course), \$18 for in-service medication training for medication aides provided by a licensed health care professional (annually, each time 1 hour x 18) and \$34 for medication refresher training for a medication aide provided by a licensed health care professional (every three years, \$10 for course + 3 hours x \$8).

Administration of medications and related provisions

The proposed changes 1) eliminate the option of pre-pouring medications, 2) add a requirement that medications be administered in accordance with the resource guide approved by the Board of Nursing, and 3) specify when a stat-drug box may be used. The purpose of these changes is to reduce errors in the administration of drugs and regarding the stat-drug box, to comply with Board of Pharmacy regulations. The proposed changes are based on revisions to the law resulting from legislation passed by the 2005 General Assembly.

Medication review

The proposed changes 1) add a requirement for an annual review of medications of residents in the residential living level of care, except for those who self-administer, 2) increase the review of medications to every six months for residents in the assisted living level of care, and 3) specify that which needs to be covered in the review. The purpose of the changes is to add protections for residents and to ensure the review is done properly. The proposed changes are based on revisions to the law resulting from legislation passed by the 2005 General Assembly.

Restraints

The proposed changes eliminate the requirement for a written plan to reduce the use of restraints in a facility and add notification requirements when restraints are used. The intent of eliminating the written plan is to delete a requirement that has proved to be unnecessary, since

restraint reduction is focused on the individual resident. The purpose of adding notification requirements is to increase protection to residents.

Personal possessions

The proposed change adds a requirement that a facility implement a policy regarding procedures to follow when a resident's personal possession is missing. The intent of the change is to provide assistance to a resident in recovering a missing item and to reduce future losses. The department estimates that it would cost \$29 for the administrator to develop a policy regarding procedures to follow when a resident's personal possession is missing (1 hour x \$29).

Resident councils

The proposed changes increase a facility's responsibilities for supporting a resident council, eliminate the exception regarding the council when the majority of residents do not want one, and address the purposes of the council. The intent of these changes is to strengthen the chances of having a successful resident council, which would give residents a more active role in working with management.

Pets living in the assisted living facility

The proposed change adds requirements regarding pets living in the facility, if the facility allows pets to live on the premises. The purpose of the change is to ensure that pets are healthy and well-treated, do not compromise the rights, preferences, or medical needs of any resident, and do not pose a significant health or safety risk.

Pets visiting the assisted living facility

The proposed change adds requirements for pets that visit the facility, if the facility allows pets to visit. The intent of the change is to ensure that pets are in good health and well-treated, that resident's rights, preferences and medical needs are not compromised, and that pets do not pose a significant health or safety risk.

General requirements

The proposed change adds a requirement that facilities that allow firearms on the premises must ensure that ammunitions and firearms are stored separately and in locked locations. The purpose of the change is to protect residents and staff.

Maintenance of buildings and grounds

The proposed change adds a requirement for a schedule for preventive maintenance and a schedule for cleaning and housekeeping. The intent of the change is to ensure that buildings and grounds are well-maintained for the safety and wellbeing of residents. The department estimates that it would cost \$58 for the administrator to develop schedules for preventive maintenance and for cleaning and housekeeping tasks (2 hours x \$29).

Heating, ventilation, and cooling

The proposed changes 1) lower the inside temperature from 85 to 82 degrees for the use of cooling devices, 2) add a requirement that the largest common area used by residents be air conditioned six months after the effective date of the regulations, 3) add a requirement for air conditioning for new construction or change in use group, 4) add a requirement that as of six years after the effective date of the standards, the facility be air conditioned. The purpose of the changes is to protect the health and well-being of residents, many of whom are elderly or on medications. A fan is insufficient in this climate. The department estimates that it would cost \$650 for air conditioning equipment for a common area (window/wall unit 28,000 BTUs), \$5,000 for air conditioning system for a building that is new construction (central air for 4000 square feet) and \$7000 for adding an air conditioning system to existing building (\$1500 to upgrade electrical service + \$5500 for central air conditioning system for 4000 square feet).

Sleeping areas

The proposed change decreases the allowed occupancy in a bedroom to no more than two residents for new construction or change in use group. The intent of the change is to provide greater privacy and dignity for residents. The department estimates that it would cost \$500 for a bedroom that can accommodate two residents, rather than four, in new construction (\$200 for wall, \$100 for door, \$100 for wiring, electrical, mechanical work, and \$100 miscellaneous expenses).

Toilet, face/hand washing and bathing facilities

The proposed changes require for new construction or change in use group one toilet for four residents, one sink for four residents, and one tub or shower for seven residents on floors with residents' bedrooms, with related provisions. The proposed changes also provide for an additional toilet or sink for common use on floors with resident rooms and the main living or

dining area when there is new construction or change in use group. The purpose of the changes is to improve access to bathrooms for populations with uncertain continence and to provide greater dignity to residents. The department estimates that it would cost \$670 for a sink, toilet, and bathtub with installation in new construction (\$160 for sink, \$210 for toilet, and \$300 for bathtub).

Emergency preparedness and response plan

The proposed changes add requirements for an emergency preparedness and response plan that is developed in accordance with a department approved manual and that addresses specified topic areas, and for quarterly reviews on emergency preparedness. The intent of the changes is to ensure that facilities are better prepared for both natural and man-made disasters. The department estimates that it would cost \$145 for an administrator to develop an emergency preparedness and response plan (\$29 x 5 hours).

Emergency evacuation plan

The proposed change broadens plans to include other emergencies as well as fire. The intent of the change is for the facility to be better prepared to meet all types of emergencies.

Evacuation drills

The proposed change requires evacuation drills, rather than fire drills. The intent of the change is to broaden the type of emergencies for which a facility will be prepared.

Emergency equipment and supplies

The proposed changes 1) add a few required items to the first aid kit, 2) add a requirement that there be a first aid kit on facility motor vehicles that transport residents, 3) add a requirement that first aid kits be checked quarterly to ensure items are present and not expired, 4) add a requirement that by 07/01/07, facilities with six or more residents are able to connect to a temporary electrical power source and have either an emergency generator or access to one through contract, 5) add a requirement that there be an alternative form of communication in addition to the telephone, and 6) increase the supply of emergency food and drinking water to a 96 hour supply and add generator fuel and oxygen for residents using oxygen to supply requirements. The intent of the changes is to protect resident safety and to ensure a facility's ability to respond to an emergency situation. The proposed change regarding the emergency generator is based on revisions to the law resulting from legislation passed by the 2004 General

Assembly. The department estimates that it would cost \$40 for a first aid kit on a facility vehicle, \$3000 for an emergency generator and wiring and electrical service panel work in a small facility (\$1500 for generator + \$1500 for wiring and electrical service panel work), and \$1 per resident for one additional gallon of emergency drinking water.

Plan for resident emergencies and practice exercise

The proposed change adds a requirement that a facility have a plan for resident emergencies and that employees practice procedures for resident emergencies. The purpose of the change is to increase protection of the safety and welfare of residents. The department estimates that it would cost \$29 for development of a resident emergency plan by an administrator (\$29 x 1 hour).

Activities

The proposed change adds two categories of required activities to be available to residents in special care units. The intent of the change is to add other areas of interest and to provide increased variety of activities for the benefit of residents.

Businesses and Entities Affected

The proposed regulations affect the 620 licensed assisted living facilities in the Commonwealth, as well as their residents and families. Prospective administrators and managers and some current administrators of assisted living facilities are also affected.

Localities Particularly Affected

The proposed regulations affect all Virginia localities.

Projected Impact on Employment

The proposed amendments in aggregate should reduce risks to the health and safety of assisted living facility residents, but the associated increased costs may cause some facilities to no longer be profitable. Hence, there may be a modest reduction in employment.

Effects on the Use and Value of Private Property

Overall, the proposed amendments will raise costs for assisted living facilities.

Small Businesses: Costs and Other Effects

As discussed above, the proposed amendments will significantly costs in terms of staff time and fees for assisted living facilities, most or all of which are small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

Essentially all of the proposed new requirements will likely produce some benefit for the public. Cumulatively though, they do introduce a significant new burden for assisted living facilities, most or all of which are small businesses. Given the thoroughness of the safeguards associated with the proposed regulations, the safety of the residents would likely not be significantly compromised by making a few of the proposals optional.